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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,890	03/28/2003	Bruno Guillaume	08291/619001	4555
7590 08/13/2004			EXAMINER	
Fish & Richardson 45 Rockefeller Plaza New York, NY 10111			EINSMANN, MARGARET V	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/381,890	<b>Applicant(s)</b> GUILLAUME ET AL.	
	<b>Examiner</b> Margaret Einsmann	<b>Art Unit</b> 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 14-32 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 14-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>24Sep 1999</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

Applicant's preamendment has been entered. Claims 14-32 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is indefinite because it fails to define the polymers claimed and defines the third term in functional language only. The examiner suggests that the polymers be defined by a Markush group. Claim 19 defines the second polymeric binder as comprising polyethyleneimine and claim 23 defines the buffer system as comprising polyethyleneimine. In claim 27 components (ii) and (iv) both comprise polyethyleneimine. In claim 19 there are several overlapping terms; cellulose is a polysaccharide; cellulose includes several of the specific celluloses claimed.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekisui Chemical company, JP 06192056 on view of Helioff et al., US 5,034,220.

A depilatory composition which has the pH adjusted to 10-13.5 comprising at least one kind of polymer selected from carboxyvinyl polymers, carboxymethylcellulose sodium salt, hydroxyethyl cellulose, methyl vinyl ether-maleic anhydride copolymer and isobutylene-maleic acid copolymer, a hair remover selected from thioglycolic acid (salts thereof) and metal sulfides, and urea is disclosed in Sekisui's abstract. Applicant's claimed crosslinked polymeric binder includes vinyl ether-maleic anhydride copolymer; applicant's claimed second polymer includes several cellulose polymers as claimed, applicant's pH range is the same as claimed, and urea is claimed as applicant's accelerator. Sekisui does not teach the particular mixture of polymers as claimed.

Helioff et al disclose gel compositions which are formed from a gel forming polymer which is a polymer of maleic acid-methyl vinyl ether crosslinked with a crosslinking agent including higher level dienes. See the paragraph bridging col 3-4. Helioff's polymer composition is especially formulated to be mild to sensitive skin. See col 1 lines 63 et seq. It would have been obvious to the skilled artisan to use the crosslinked polymer of Helioff et al. in the depilatory compositions of Sekisui because Sekisui teach that the compositions comprise a maleic acid-vinyl ether polymer and optionally another water soluble polymer, and the maleic acid-vinyl ether polymer of Helioff is known to be gentle to

sensitive skin as well as being a gel forming polymer. Accordingly Helioff's polymer alone would form a gel for sensitive skin and the additional polymer would function as a filler or thickener. Regarding the process of making claims, one skilled in formulating cosmetic preparations would know the proper addition of ingredients to form a composition by forming premixes as necessary, or else one could arrive at the processes as claimed in claimed 31 and 32 without undue experimentation. Regarding claims 24-26, this office is not equipped to measure physical properties.

Claims 14-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helioff in view of Sekisui.

Helioff discloses a composition for use as a shaving gel comprising a crosslinked vinyl ether-maleic anhydride copolymer s claimed, a polyvinyl pyrrolidone polymer as claimed and other ingredients. Said composition is used to treat sensitive skin.

Sekisui teach that thioglycolic acid and urea are active ingredients in a depilatory composition used at a ph of 10-13.5. It would have been obvious to the skilled artisan, a cosmetic chemist hoping to form a gel depilatory composition to use the gel of Helioff because it is known to be mild to sensitive skin, and to combine it with the depilatory components of Sekisui since they are taught to be successful for removing hair.

Regarding the process of making claims, one skilled in formulating cosmetic preparations would know the proper addition of ingredients to form a composition by forming premixes as necessary, or else one could arrive at the

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processes as claimed in claimed 31 and 32 without undue experimentation.

Regarding claims 24-26, this office is not equipped to measure physical properties.

Brode et al., US 4,913,743 teach compositions comprising two polymers which may be used in depilatory compositions.

The remaining references of the 892 are relevant to applicant's claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 9, 2004

  
Margaret Einsmann  
Primary Examiner  
Art Unit 1751